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8 *Attorneys for Defendant State of California*  
*(by and through the California Highway*  
9 *Patrol) and Sergio Flores*

10 **IN THE UNITED STATES DISTRICT COURT**  
11 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

14 JACOB GREGOIRE,  
15  
16 Plaintiff,  
17  
18 v.  
19 CALIFORNIA HIGHWAY PATROL,  
an agency of the State of California;  
20 SERGIO FLORES, and DOES 1 to 20,  
21 Defendants.

3:14-cv-01749-GPC-DHB

**JOINT MOTION TO EXTEND  
DEADLINE TO FILE MOTIONS**

Courtroom: Tenth Floor (Annex)  
Judge: Hon. David H. Bartick

22 Plaintiff Jacob Gregoire and Defendants State of California and Sergio Flores  
23 jointly present this motion jointly.

24 **REQUEST**

25 The parties request an extension of the deadline to file dispositive motions.  
26 The current deadline is November 9, 2015. The requested new deadline is  
27 November 23, 2015.  
28

1 Although the parties have made previous requests to modify scheduling  
2 orders, they have made only one previous request to extend the deadline to file  
3 motions. The previous request was granted in part. This second request seeks an  
4 extension of the motion-filing deadline to a date earlier than that requested in the  
5 previous request. As set forth before, the parties have proceeded diligently in this  
6 matter, but the requested relief is necessary to accommodate defense's counsel  
7 work schedule and recent medical condition. See Decl. of Wolfe.

### 8 PREVIOUS MODIFICATIONS

9 The initial Scheduling Order was entered November 21, 2014. (ECF 9.) The  
10 order set a deadline of September 21, 2015, to file motions. (ECF 9, ¶ 6)

11 On May 1, 2015, the parties submitted a joint motion to extend certain  
12 discovery deadlines. (ECF 11.) The parties did not request extension of the  
13 deadline to file motions. The motion was granted. (ECF 12.)

14 On July 7, 2015, the parties submitted a joint motion to extend certain  
15 discovery deadlines and to extend the motion-filing deadline. (ECF 13.) With  
16 respect to the motion deadline, the parties requested an extension of the original  
17 date of September 21, 2015, to December 18, 2015. The motion was granted in  
18 part. (ECF 15.) The motion-filing deadline was extended to November 9, 2015.  
19 (ECF 15, ¶ 5.)

20 On August 13, 2015, the parties submitted a joint motion to allow certain  
21 depositions and a medical examination after the discovery deadline. The parties did  
22 not request an extension of the motion-filing deadline. The motion was granted.  
23 (ECF 19.)

### 24 STATUS OF LITIGATION

25 Both sides exchanged written discovery. Plaintiff propounded requests for  
26 documents, to which Defendants responded. The parties also stipulated to a  
27 protective covering peace officer personnel records. (ECF 16, 17.) Defendants  
28

1 served interrogatories and requests for admission. Plaintiff responded. Defendants  
2 also subpoenaed Plaintiff's medical and employment records.

3 The following depositions have been completed: Plaintiff Jacob Gregoire,  
4 Defendant Sergio Flores (Part I), and witnesses Sergeant Pacheco, Officer Colunga,  
5 and Captain Albright.

6 The parties designated experts and exchanged reports. Plaintiff's experts are  
7 Roger Clark (police practices), Neil Alex, M.D. (psychiatrist), and Breffni Barrett,  
8 Ph.D. (psychologist). Defendants' experts are Grey Meyer (police practices),  
9 Officer Stout (incident command issues), and Dominick Addario, M.D.  
10 (psychiatrist). Dr. Addario also conducted a defense examination of Plaintiff.

### 11 CONCLUSION

12 Both sides join in the request. They believe the case warrants consideration of  
13 summary judgment. Moreover, the parties agree it is appropriate to accommodate  
14 defense counsel's medical issues and work schedule.

15 Dated: November 4, 2015

Respectfully submitted,

17 CASEY GERRY SCHENK  
18 FRANCAVILLA BLATT &  
PENFIELD, LLP

19 s/Thomas D. Luneau  
20 THOMAS D. LUNEAU, ESQ.  
21 Attorneys for Plaintiff Jacob  
Gregoire

22 Dated: November 4, 2015

Respectfully submitted,

23 GILLEON LAW FIRM

24 s/DANIEL M. GILLEON  
25 DANIEL M. GILLEON, ESQ.  
26 Attorneys for Plaintiff Jacob  
27 Gregoire  
28

1 Dated: November 4, 2015

Respectfully submitted,

2 LAW OFFICE OF STEVE  
3 HOFFMAN

4  
5 s/Stephen E. Hoffman  
6 STEPHEN E. HOFFMAN, ESQ.  
7 *Attorneys for Plaintiff Jacob*  
8 *Gregoire*

9 Dated: November 4, 2015

Respectfully submitted,

10 KAMALA D. HARRIS  
11 Attorney General of California  
12 RICHARD F. WOLFE  
13 Supervising Deputy Attorney General  
14 DOUGLAS E. BAXTER  
15 Deputy Attorney General

16 s/RICHARD F. WOLFE  
17 RICHARD F. WOLFE  
18 Supervising Deputy Attorney General  
19 *Attorneys for Defendants State of*  
20 *California (by and through the*  
21 *California Highway Patrol) and*  
22 *Sergio Flores*

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**DECLARATION OF RICHARD WOLFE**

I make the following declaration based on my personal knowledge.

I am a Supervising Deputy Attorney General for the State of California. The Office of the Attorney General is counsel of record for Defendants in this matter. The Deputy Attorney General assigned to this case is Douglas E. Baxter. I am his supervisor.

On Monday morning, November 2, 2015, I received a telephone call from Mr. Baxter advising me he had a medical condition requiring a hospital visit over the weekend. He also advised me the condition was causing pain and the prescribed

1 medication was making it difficult to work. I encouraged Mr. Baxter to stay home  
2 and attend to his medical condition.

3 Citing the press of business, including the deadline in this action to file a  
4 motion for summary judgment, Mr. Baxter came to office. I instructed Mr. Baxter  
5 to return home, take the balance of the week to recover, and to not work while at  
6 home. Before he left the office, I gave Mr. Baxter permission to contact Plaintiff's  
7 counsel and request that they join in a motion to extend the current motion-filing  
8 deadline.

9 On Tuesday, November 3, 2015, Mr. Baxter called to advise me that  
10 Plaintiff's counsel had agreed to extend the deadline.

11 Mr. Baxter also informed me during our telephone conversation on November  
12 3, 2015, that he had been seen for follow-up by his physician, who instructed him to  
13 stay off work through Thursday, November 5, 2015.

14 In addition to Mr. Baxter's medical situation, his practice is extremely busy.  
15 For example, his current trial schedule is as follows: December 8, 2015: *Oglesby v.*  
16 *McEwen*, No. 3:11-cv-03026-DMS-MDD (S.D. Cal.); December 11, 2015,  
17 *Albarran v. State of California*, No. 37-2013-00075278-CU-PA-NC (Super. Ct. San  
18 Diego County); January 11, 2016: *Lewis v. Boso*, No. 30-2014-00753441-CU-PA-  
19 CJC (Super. Ct. Orange County); and *Sheets v. Department of Parks and*  
20 *Recreation*, No. 30-2014-00743912-CU-PA-CJC (Orange County Superior Court).  
21 In an effort to assist Mr. Baxter, I have assigned an additional Deputy Attorney  
22 General to *Albarran* and *Lewis*, and have personally handled some of the day-to-  
23 day work on Mr. Baxter's other cases.

24 The combination of Mr. Baxter's work schedule and medical condition  
25 prevents him from completing the defense motion for summary judgment by the  
26 current deadline of November 9, 2015.

27 ///

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1 I declare under penalty of perjury under the laws of the United States of  
2 America that the foregoing is true and correct.

3  
4 Dated: November 3, 2015

s/RICHARD F. WOLFE

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### CERTIFICATE OF SERVICE

Case Name: **Gregoire v. CHP**

No. **14-cv-01749-GPC (DHB)**

I hereby certify that on November 5, 2015, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

**JOINT MOTION TO EXTEND DEADLINE TO FILE MOTIONS**

I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on November 5, 2015, at San Diego, California.

J. L. Hall

Declarant



Signature

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